

REMARKS

Claims 27-47 have been drafted to remove the examiner's rejection under 35 U.S.C. 112, second paragraph.

New Independent claim 27 describes the subject pet cushion having a slow recovery, porous, visco-elastic foam padding layer. A supporting layer of stabilizing material is disposed under the bottom of the visco-elastic foam padding layer. A waterproof, breathable, flexible material protective liner is received over the padding layer and under the supporting layer. A washable fabric cover is used to enclose the padding layer, the supporting layer and the protective liner.

In the examiner's rejection of claims 1-26 as being obvious, it is acknowledged that McMahon teaches a cushion for a pet having a padding layer, a supporting padding layer and a protective liner. But, the padding layer described in McMahon is highly compressible and easily pliable. This feature allows the animal to "bed-down" or "nest" by rearranging the shape of the padding layer. The reference to White discloses a cushion made of slow recovery visco-elastic foam. The reference to Samms et al. describes the use of waterproof, breathable, flexible material.

The McMahon reference clearly teaches away from incorporating a slow recovery visco-elastic foam padding layer as disclosed by White, because this type of material can't be rearranged in shape by the animal as taught by McMahon.

Also, the cited references don't suggest or teach the specific combination of structure and function of the visco-elastic foam padding layer having a bottom placed on a top of a supporting layer. The waterproof, breathable, protective liner received over a top of the visco-elastic foam padding layer and over a bottom of the supporting layer. This feature is important in that it protects the top and bottom of the cushion from absorbing liquids, due to the incontinence of the domestic animal. Further, this combination of structure allows the cushion to breath and maintains loft of the padding layer and supporting layer. The three cited references, as a whole, certainly don't suggest or teach the desirability of the combination of structure found in claim 27. Claim 27 should be allowed.

Claims 28-42 are dependent on the patentable subject matter of claim 27. These claims should be allowed.

New independent claim 43 is similar to independent claim 27. This claim describes the protective liner made of flexible moisture-vapor-transmission (MTV) membrane material. The above remarks related to claim 27 also apply to claim 43. Claim 43 should be allowed.

Claims 44-47 are dependent on the patentable subject matter of claim 43. These claims should be allowed.

CONCLUSION

Re-examination, reconsideration and allowance of the application are requested in view of the new claims and remarks as presented.

Should the examiner have any questions regarding this amendment, it is urged that she contact the under signed at 303 744 8873.

Respectfully submitted,



Ms. Debra L. Holte

CERTIFICATE OF RECEIPT BY FACSIMILE **UNDER 37 CFR 1.6**

I hereby certify that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office, Art Unit: 3643, Fax: 1-571-273-8300, Alexandria, Virginia 22313 on 25 May 2006.

Date: 25 May 2006 
Applicant